

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE: BARD IVC FILTER PRODUCTS
LIABILITY LITIGATION

No. 2:15-MD-02641-DGC

**SECOND AMENDED MASTER
SHORT FORM COMPLAINT FOR
DAMAGES FOR INDIVIDUAL
CLAIMS AND DEMAND FOR JURY
TRIAL**

Member Case No. CV-16-3655-PHX-DGC

Plaintiff(s) named below, for their Complaint against Defendants named below, incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364).

Plaintiff(s) further show the Court as follows:

1. Plaintiff/Deceased Party:

CAROL BURNS-SMITH

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of consortium claim:

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

N/A

4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of implant:

Florida

5. Plaintiff's/Deceased Party's state [if more than one Plaintiff] of residence at the time of injury:

Florida

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

Florida

7. District Court and Division in which venue would be proper absent direct filing:

U.S. District Court for the Southern District of Florida

8. Defendants (Check Defendants against whom Complaint is made):

C.R. Bard Inc.

Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:

Diversity of Citizenship

Other: _____

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim

(Check applicable Inferior Vena Cava Filter(s)):

Recovery® Vena Cava Filter

G2® Vena Cava Filter

G2® X Vena Cava Filter

Eclipse® Vena Cava Filter

Meridian® Vena Cava Filter

X Denali® Vena Cava Filter

Other: _____

11. Date of Implantation as to each product:

December 24, 2014

12. Counts in the Master Complaint brought by Plaintiff(s):

X Count I: Strict Products Liability – Manufacturing Defect

X Count II: Strict Products Liability – Information Defect (Failure to Warn)

X Count III: Strict Products Liability – Design Defect

X Count IV: Negligence – Design

X Count V: Negligence – Manufacture

X Count VI: Negligence – Failure to Recall/Retrofit

X Count VII: Negligence – Failure to Warn

X Count VIII: Negligence Misrepresentation

X Count IX: Negligence *per se*

X Count X: Breach of Express Warranty

X Count XI: Breach of Implied Warranty

X Count XII: Fraudulent Misrepresentation

X Count XIII: Fraudulent Concealment

X Count XIV: Violations of Applicable FL Law Prohibiting Fraud and Unfair and Deceptive Trade Practices.

Count XV: Loss of Consortium

 Count XVI: Wrongful Death

X Count XVII: Survival

X Punitive Damages

Other(s): _____ (please state the facts
supporting this Count in the space immediately below)

13. Jury Trial demanded for all issues so triable?

X Yes

 No

RESPECTFULLY SUBMITTED this 24th day of October, 2016.

Respectfully submitted,

PAGLIALUNGA & HARRIS, PS

/s/ Charles Paglialunga

Charles T. Paglialunga, Esq. (CA Bar
No. 296106)

PAGLIALUNGA & HARRIS, PS

4660 La Jolla Village
Drive, Ste. 500
San Diego, CA 92122
Telephone: (888) 604-3434
Facsimile: (888) 411-0826
chuck@phlawfirm.com

I hereby certify that this 24th day of October, 2016, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of Notice of Electronic Filing.

/s/ 